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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

(HONORABLE MARILYN L. HUFF)

UNITED STATES OF AMERICA, Plaintiff, v. MARK LAURICO-YENO, Defendant.	)	Case No.: 08CR1624-H Date: June 2, 2008 Time: 2:00 p.m. **NOTICE OF MOTIONS AND MOTIONS TO:** **(1) COMPEL DISCOVERY; AND** **(2) LEAVE TO FILE FURTHER MOTIONS.**

TO: KAREN P. HEWITT, UNITED STATES ATTORNEY; AND
DOUGLAS KEEHN, ASSISTANT UNITED STATES ATTORNEY:

PLEASE TAKE NOTICE that on June 2, 2008, at 2:00 p.m., or as soon thereafter as counsel may be heard, the accused, Mark Laurico-Yeno, by and through his attorneys, Erick L. Guzman and Federal Defenders of San Diego, Inc., will ask this Court to enter an order granting the motions outlined below.

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MOTIONS

Defendant, Mr. Laurico-Yeno, by and through his attorneys, Erick L. Guzman and Federal Defenders of San Diego, Inc., pursuant to the United States Constitution, the Federal Rules of Criminal Procedure, and all other applicable statutes, case law and local rules, hereby moves this Court for an order to:

(1) Compel Discovery; and
(2) Leave to File Further Motions.

These motions are based upon the instant motions and notice of motions, the attached statement of facts and memorandum of points and authorities, and any and all other materials that may come to this Court's attention at or before the time of the hearing on these motions.

Respectfully submitted,

/s/ Erick L. Guzman

Dated: June 2, 2008

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Federal Defenders of San Diego, Inc.
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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

(HONORABLE MARILYN L. HUFF)

UNITED STATES OF AMERICA, Plaintiff, v. MARK LAURICO-YENO, Defendant.	Criminal No. 08CR1624-H DATE: June 2, 2008 TIME: 2:00 P.M. MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF DEFENDANT'S MOTIONS

I.

STATEMENT OF FACTS[1]

On May 21, 2008, Mr. Laurico-Yeno was arraigned on an indictment charging him with illegally re-entering the United States after deportation. He pled not guilty to all counts. These motions follow.

II.

COMPEL ALL DISCOVERABLE MATERIAL

Mr. Laurico requests all discoverable material pursuant to Federal Rule of Criminal Procedure 16, Brady v. Maryland, 373 U.S. 83 (1963), Giglio v. United States, 405 U.S. 150 (1972). This includes material that may support any defense pre-trial motions. See United States v. Cedano-Arellano, 332 F.3d 568 (9th Cir. 2003) (Rule 16 applies to discovery material to defense pre-trial motions); United States v. Gamez-

[1] These "facts" are based on discovery provided by the government. Mr. Laurico does not concede the veracity of any of these allegations.

Orduno, 235 F.3d 453, 462 (9th Cir. 2000) (Brady applies to material supporting defense pre-trial motions). Mr. Laurico also requests any evidence that the government may potentially attempt to enter vis-a-vis rule Federal Rule of Evidence 404(b).

Mr. Laurico also requests the court to order access to his "A-File" pursuant to Rule 16(a)(1)(B) of the Federal Rule of Criminal Procedure, which provides that "upon request of the defendant, the government shall furnish to the defendant such copy of his prior criminal record, if any, as is within the possession, custody, or control of the government . . . ."

Mr. Laurico requests all arrest reports, investigator's notes, memos from arresting officers, dispatch tapes, sworn statements, and prosecution reports pertaining to Mr. Laurico and available under Fed. R. Crim. P. 16(a)(1)(B) and (C), Fed. R. Crim. P. 26.2 and 12(I). Mr. Laurico specifically requests that all dispatch tapes or any other audio or visual tape recordings which exist and which relate in any way to his case and or his arrest be preserved and provided in their entirety.

Specifically, Mr. Laurico requests a copy of the audiotape of ***any*** deportation hearing, as well as a transcript of any such proceeding.

III.

LEAVE TO FILE FURTHER MOTIONS

Mr. Laurico has not yet viewed his "A-File." After doing so, it is likely that Mr. Laurico will need to file additional motions. Mr. Laurico respectfully requests the court leave to file further motions if necessary.

IV.

CONCLUSION

Mr. Laurico requests that the Court to grant the above motions.

Respectfully submitted,

Dated: June 2, 2008

/s/ Erick L. Guzman
ERICK L. GUZMAN
Federal Defenders of San Diego, Inc.
Attorneys for Mr. Laurico-Yeno

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, Plaintiff, v. MARK LAURICO-YENO, Defendant.	Case No. 08cr1624-H CERTIFICATE OF SERVICE

Counsel for Defendant certifies that the foregoing pleading, is true and accurate to the best of his information and belief, and that a copy of the foregoing Defendant's Notice of Motions and Motions has been electronically served this day upon:

Douglas Keehn
U.S. Attorney's Office
880 Front Street
San Diego, CA 92101

Dated: June 2, 2008

/s/ Erick L. Guzman

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